

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

Shaun M. Cook

v.

Civil No. 11-cv-198-JD

Ron White, Superintendent,
Merrimack County Department of
Corrections, et al.

O R D E R

Before the court is Shaun M. Cook's motion for court-appointed counsel (doc. no. 3). Cook states that he is unable to afford counsel, and that his incarceration and limited knowledge of the law will hinder his ability to litigate this matter if counsel is not appointed to represent him.

There is no absolute constitutional right to free legal representation in a civil case. See Bemis v. Kelley, 857 F.2d 14, 15 (1st Cir. 1988). Rather, appointment of counsel in a civil case is left to the discretion of the court. See 28 U.S.C. § 1915(d). An appointment of counsel would be warranted in a case where the indigent litigant can show that there are "exceptional circumstances," such that without counsel, the litigant would most likely be unable to obtain due process of law. See DesRosiers v. Moran, 949 F.2d 15, 23 (1st Cir. 1991); Cookish v. Cunningham, 787 F.2d 1, 2 (1st Cir. 1986) (per curiam).

In the case at hand, Cook has failed to establish the existence of such exceptional circumstances. Moreover, in a report and recommendation issued this date, the court recommends that the complaint be dismissed for failing to state any claim upon which relief might be granted. If the recommendation is approved, the action will be dismissed, rendering Cook's motion moot.

Cooks' motion for appointment of counsel (doc. no. 3) is DENIED.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Date: October 28, 2011

cc: Shaun M. Cook, pro se

LBM:jba